Bathaee :: Dunne :: LLP

FILED UNDER SEAL

May 31, 2023 Via CM/ECF

Re: Klein v. Meta Platforms, Inc., No. 3:20-cv-08570-JD (N.D. Cal.)

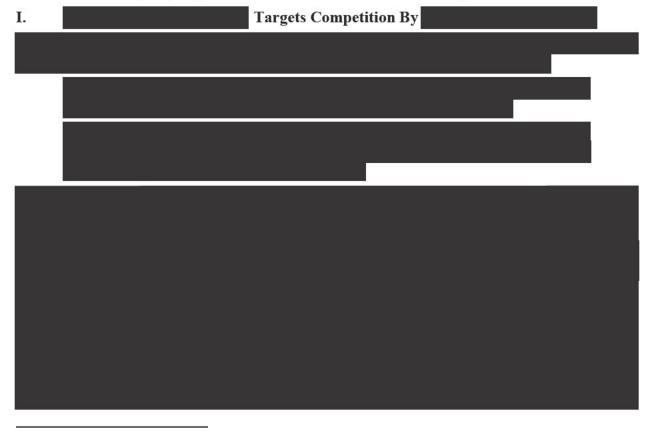
Dear Judge Donato:

Advertiser Plaintiffs ("Advertisers") respectfully request that the Court find that a *prima facie* case exists under the crime-fraud exception with respect to certain communications currently being withheld by Defendant Meta Platforms, Inc. ("Facebook") as attorney-client privileged. The

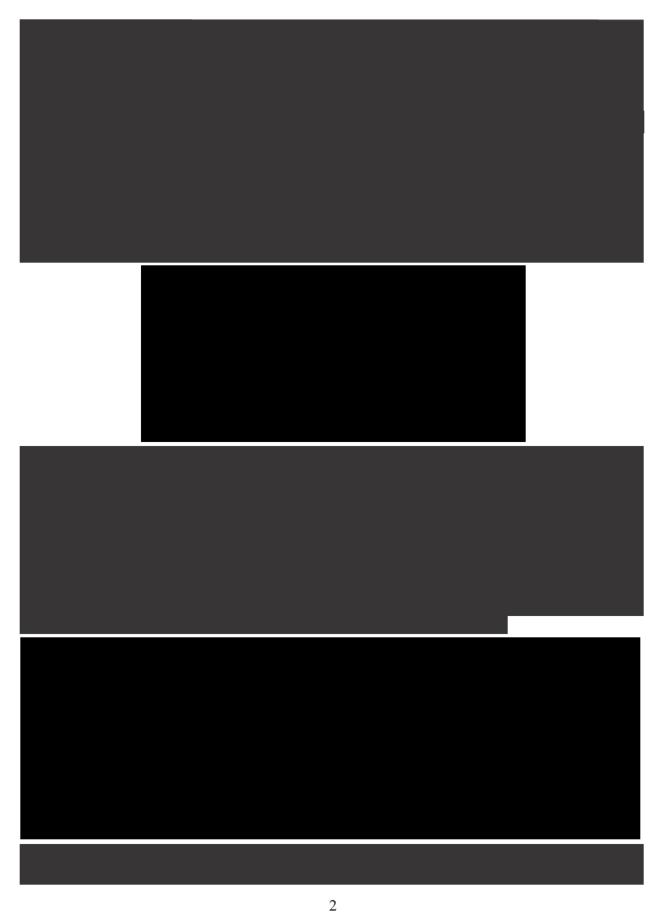
Communications at issue relate

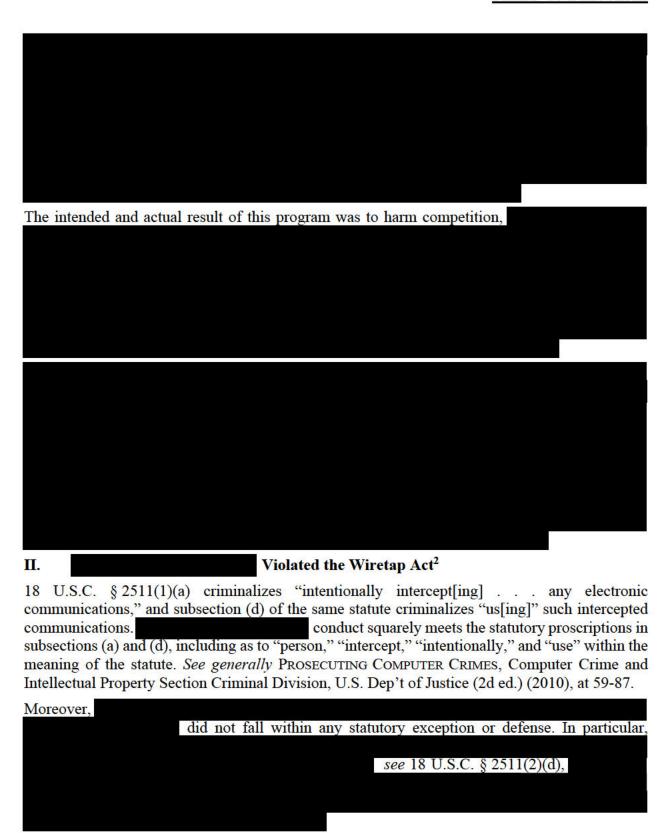
On May 15,

2023, Advertisers sent Facebook a nineteen-page single-spaced letter providing screenshots, quotations from documents, and evidentiary citations setting forth the company's applicable conduct; analyzing that conduct under 18 U.S.C. § 2511, et seq. and under the Ninth Circuit's crime-fraud test, see In re Grand Jury Investigation, 810 F.3d 1110, 1113 (9th Cir. 2016); and seeking a prompt meet-and-confer.¹ Over the next two weeks, Advertisers sent additional letters and emails. On May 31, the parties met and conferred and reached impasse.



¹ Advertisers stand ready to provide full briefing, exhibits, and/or Advertisers' letters to Facebook at the Court's request.





² Advertisers provided Facebook with a six-page version of this analysis, and would be happy to provide a lengthier analysis to the Court if the Court desires it.

Respectfully submitted,

By: <u>Brian J. Dunne</u>
On Behalf of Interim Co-Lead Counsel for the Advertiser Classes

SCOTT+SCOTT ATTORNEYS AT LAW LLP

/s/ Amanda F. Lawrence

Amanda F. Lawrence (pro hac vice) alawrence@scott-scott.com
Patrick J. McGahan (pro hac vice) pmcgahan@scott-scott.com
Michael P. Srodoski (pro hac vice) msrodoski@scott-scott.com
156 South Main Street, P.O. Box 192
Colchester, CT 06415
Tel.: (860) 537-5537

Patrick J. Coughlin (CA 111070) pcoughlin@scott-scott.com
Carmen A. Medici (CA 248417) cmedici@scott-scott.com
Hal D. Cunningham (CA 243048) hcunningham@scott-scott.com
Daniel J. Brockwell (CA 335983) dbrockwell@scott-scott.com
600 W. Broadway, Suite 3300
San Diego, CA 92101
Tel.: (619) 233-4565

Patrick J. Rodriguez (*pro hac vice*) prodriguez@scott-scott.com 230 Park Avenue, 17th Floor New York, NY 10169 Tel.: (212) 223-6444

BATHAEE DUNNE LLP

/s/ Yavar Bathaee

Yavar Bathaee (CA 282388)
yavar@bathaeedunne.com
Andrew C. Wolinsky (CA 345965)
awolinsky@bathaeedunne.com
Adam Ernette (pro hac vice)
aernette@bathaeedunne.com
Priscilla Ghita (pro hac vice)
pghita@bathaeedunne.com
Chang Hahn (pro hac vice)
chahn@bathaeedunne.com
445 Park Avenue, 9th Floor
New York, NY 10022
(332) 322-8835

Brian J. Dunne (CA 275689) bdunne@bathaeedunne.com Edward M. Grauman (pro hac vice) egrauman@bathaeedunne.com Andrew M. Williamson (CA 344695) awilliamson@bathaeedunne.com 901 S. MoPac Expressway Barton Oaks Plaza I, Suite 300 Austin, TX 78746 (213) 462-2772

Allison Watson Cross (CA 328596) across@bathaeedunne.com 3420 Bristol St., Ste 600 Costa Mesa, CA 92626-7133

Interim Co-Lead Counsel for the Advertiser Classes

FILER ATTESTATION

I am the ECF user who is filing this document. Pursuant to Civil L.R. 5-1(h)(3), I hereby attest that each of the other signatories have concurred in the filing of the document.

Dated: May 31, 2023 By: /s/ Brian J. Dunne

Brian J. Dunne